

RESOLUTION NO. RS2018-1530

A resolution requesting that the Tennessee General Assembly establish a fund to cover property owners' losses from diminished property values following the preemption and of Ordinance no. BL2016-234.

WHEREAS, on July 5, 2016, the Metropolitan Council adopted Ordinance no. BL2016-234, amending Chapter 10.56 of the Metropolitan Code of Laws to establish a mechanism to allow the Director of the Metro Health Department – the department tasked with the enforcement of local air pollution regulations – to request information from applicants for construction permits of equipment or facilities that are a source of air contaminant emissions; and

WHEREAS, under the adopted legislation, the Director of the Metro Health Department was permitted to request information necessary to determine whether the source would operate in violation of Metro Code air pollution regulations or prevent attainment or maintenance of national air quality standards; and

WHEREAS, as substituted, the legislation further required all new sources of emissions to comply “with the Metropolitan Zoning Code for the use of the property” on which the source would be constructed; and

WHEREAS, subsequently in 2017, the Tennessee General Assembly enacted 2017 Pub. Ch. 284, effectively preempting Ordinance no. BL2016-234 by prohibiting the inclusion of land use or zoning requirements in air pollution control regulations and further prohibiting a municipality or county from requesting the Air Pollution Control Board to include land use or zoning requirements in the state implementation plan. This preemption had the immediate practical effect of reducing and diminishing the property values of property owners in the vicinity of facilities emitting air contaminant emissions; and

WHEREAS, in the interests of the general welfare of the citizens and residents of Nashville and Davidson County, it is appropriate to request that the Tennessee General Assembly, following its preemption of Ordinance No. BL2016-234, hereafter establish a monetary fund to cover the resulting losses to property owners, including diminished property values.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Council hereby goes on record as requesting that the Tennessee General Assembly establish a fund to cover losses to property owners, including diminished property values, resulting from the Tennessee General Assembly's preemption and nullification of the Metropolitan Government's legislation, Ordinance no. BL2016-234.

Section 2. That the Metropolitan Clerk is directed to send a certified copy of this Resolution to each member of the Davidson County Delegation to the Tennessee General Assembly.

Section 3. This Resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

SPONSORED BY:

Fabian Bedne
Member of Council